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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,774	12/20/2001	Damien R. Forkner	10012176-1	5672

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HEWLETT-PACKARD COMPANY
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EXAMINER

VO, LILIAN

ART UNIT	PAPER NUMBER
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2195

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,774

Applicant(s)

FORKNER ET AL.

Examiner

Lilian Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 – 26 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1 – 26 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.

4. Regarding **claims 1 – 11**, the system **and 21 – 26**, the medium, are at best a software system, per se, failing to be tangibly embodied or include any recited hardware as part of the system or the medium.

5. **Claims 12 – 20** are directed to method steps, which can be practiced mentally in conjunction with pen and paper, therefore they are directed to non-statutory subject matter. Specifically, as claimed, it is uncertain what performs each of the claimed method steps. Moreover, each of the claimed steps, inter alia, running, performing, launching, parsing, forwarding, capturing, terminating, obtaining, verifying, using, can be practiced mentally in conjunctions with pen and paper. The claimed steps do not define a machine or computer implemented process [see MPEP 2106]. Therefore, the claimed invention is directed to non-

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statutory subject matter. (The examiner suggests applicant to change “method” to “computer implemented method” in the preamble to overcome the outstanding 35 U.S.C. 101 rejection).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 9 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. **Claim 9** recites the limitation “wherein when the plurality of transient processes communicate with the persistent process via interprocess communication.” This is considered unclear and incomplete. Appropriate correction is required.

9. **Claim 20** recites the limitation “the plurality of transient processes” in page 13. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1 – 3, 6 – 9, 12 – 14, 16 – 18, 21, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kalajan et al. (US 5,935,212, hereinafter Kalajan).

12. Regarding **claim 1**, Kalajan discloses a server (fig. 4: 50) comprising:

an application (col. 4, lines 6 – 39), the application comprising:

a persistent process that generates dynamic and interactive content for the application (col. 4, lines 6 – 21, fig. 4: 56 - 58); and

a plurality of transient processes, wherein each transient process is launched to handle a client request from a client by parsing the client request, forwarding the client request to the persistent process, capturing a result from the persistent process and forwarding the result to the client (col. 4, lines 6 – 15, 29 – 33).

13. Regarding **claim 2**, Kalajan discloses the persistent process utilizes a support process outside the server (fig. 4: 56 – 58, fig. 5A: 86, col. 5, lines 15 – 23).

14. Regarding **claim 3**, Kalajan discloses the transient processes implement a CGI (col. 4, lines 6 – 12).

15. Regarding **claim 6**, Kalajan discloses that each of the plurality of transient processes terminates after forwarding the result to the client (fig. 5A: 74, col. 4, lines 20 – 22 and 65 - 67).

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16. Regarding **claim 7**, Kalajan discloses when a first client sends a file request for a file, a first transient process obtains and forwards the file to the first client (col. 3, lines 15 – 17: reading email, lines 58 – 61: primitives such as “connect”, “read” data, “write” data and “close”. Col. 4, lines 6 – 23).

17. Regarding **claim 8**, Kalajan discloses when a first client sends a file request for a file, a first transient process, after verifying access to the file, obtains and forwards the file to the first client (col. 3, lines 7 – 15: using http with the secure socket layer to provide secure data transmissions. Col. 3, lines 15 – 17: reading email, lines 58 – 61: primitives such as “connect”, “read” data, “write” data and “close”. Col. 4, lines 6 – 23).

18. Regarding **claim 9**, Kalajan discloses the plurality of transient processes communicate with the persistent process via interprocess communication (IPC) (col. 3, lines 19 – 20).

19. **Claims 12 – 14, 16 – 18, 21, 23 and 24** are rejected on the same ground as stated in claims 1 – 3 and 6 – 8 above.

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalajan et al. (US 5,935,212), as applied claims 1, 12 and 21 above, in view of Challenger et al. (US 6,026,413, hereinafter Challenger).

22. Regarding claims 4 and 11, Kalajan did not clearly disclose the persistent process includes or uses a queue for the request. Nevertheless, Challenger discloses the uses of a queue for storing the incoming requests (fig. 33a, 33B and 34). It would have been obvious for one of an ordinary skill in the art, at the time the invention was made, to incorporate this feature to Kalajan's system so that incoming requests can be queued as they are waiting to be serviced fairly in the order they were received.

23. Claims 20 and 26 are rejected on the same ground as stated in claims 4 and 11 above.

24. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalajan et al. (US 5,935,212), as applied to claims 1, 12 and 21 above, in view of Hockey (US Pat. Application Publication 2004/0064515).

25. Regarding claims 5 and 10, Kalajan did not clearly disclose the persistent process performs background processing when there are no pending client requests, including look-ahead caching. Nevertheless, Hockey discloses the step of performing background tasks including

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looking in the cache when there are no more messages waiting to be serviced (page 6, paragraph 104). It would have been obvious for one of an ordinary skill in the art, at the time the invention was made to incorporate Hockey's teaching with Kalajan's to perform other tasks while waiting so that resource can be utilized instead of being wasted and/or idle.

26. **Claims 15, 19, 22 and 25** are rejected on the same ground as stated in claims 5 and 10 above.

Conclusion

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Monday - Thursday, 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist at 571-272-2100.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lilian Vo
Examiner
Art Unit 2195

lv
March 25, 2005


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